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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/778,794 | 02/08/2001 | Hiroshi Isono | 108482 | 3978 |

25944 7590 04/01/2004

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| EXAMINER |
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BURCH, MELODY M

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| ART UNIT | PAPER NUMBER |
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3683

DATE MAILED: 04/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Applicati n No.

09/778,794

Applicant(s)

ISONO ET AL.

Examiner

Melody M. Burch

Art Unit

3683

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address -- *ML*

THE REPLY FILED 26 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 1,3-7 and 9-12.

Claim(s) objected to: _____.

Claim(s) rejected: 8,14 and 16-30.

Claim(s) withdrawn from consideration: _____.

8. ☒ The drawing correction filed on 26 February 2004 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

Continuation of 3. Applicant's reply has overcome the following rejection(s): upon entry, the amendment will overcome the drawing, specification, and claim objections as well as the 112 rejections set forth in the action mailed 10/27/03.

Continuation of 5. does NOT place the application in condition for allowance because: the amendment is replete with new 112 issues including but not limited to the phrase "the fluid pressure source" in line 6 from the bottom of claim 22, the phrase "the brake operating amount" in lines 2-3 from the bottom of claim 22, the phrase "the opening amount" in line 6 from the bottom of claim 24 which all lack proper antecedent basis in the claims. In line 13 from the bottom of claim 27 the phrase "a master cylinder pressure detector" is indefinite. It is unclear to the Examiner whether the master cylinder pressure detector in claim 27 is intended to be the same or different from that claimed in claim 24 (from which claim 27 depends). The above list is not intended to be exhaustive. With regards to the rejections on the merits, Examiner agrees that the Maehara et al. reference fails to teach the limitation of detecting a bottoming condition based on whether an increasing gradient of the brake operating amount is larger than a predetermined gradient.

Continuation of 10. Other: The changes to newly submitted figure 3 should be made evident either through discussion in the remarks or through the use of highlights on the drawing.

mmb
3/24/04

M. C. Graham
3/24/2004
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PRIMARY EXAMINER
GROUP 310